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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8167 OF 2017

Raj Stone Quarry	...Petitioner
V/s.	
The District Collector,Daman	...Respondent

Mr.M.M. Vashi, Senior Counsel i/b M/s.M.P. Vashi & Associates for the Petitioner.

Mr.Shrishailya S. Deshmukh for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 4TH APRIL, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the show cause notice dated 19th October, 2016 in which the learned Deputy Collector has observed that it has been found that the petitioners are carrying out illegal mining activities on the land bearing Survey No.312 at Bhimpore,Nani Daman in the proposed reserved forest area. In the impugned notice, the petitioner has been also directed to stop mining / quarry activities immediately and has been called upon to show cause as to why necessary action should not be taken against the petitioner for carrying out illegal mining.

2. A perusal of the order passed by the Division Bench of this Court dated 14th September, 2016 indicates that the learned Collector was directed to look into the complaint filed by the petitioner – Uday Raman Patel in the said writ petition and to take appropriate decision in regard to the petitioner's grievance in accordance with law keeping in view all the orders passed by the Civil Court as also the order passed in Second Appeal No.816 of 2012. It is further provided in the said order that in case the activities are found to be illegal and unauthorized, appropriate further necessary steps be taken by the third respondent i.e. the Collector in accordance with law.

3. A perusal of the show cause notice indicates that the proposed action is initiated by the learned Collector based on the said directions issued by this Court in the said Writ Petition No.10268 of 2016.

4. Mr.Vashi, learned senior counsel appearing for the petitioner on instructions states that his clients have already filed a reply to the earlier show cause notice dated 28th February, 2014 which shall be treated as a reply to the show cause notice dated 9th October, 2016. His client would file further reply, if necessary within seven days from today in response to the said show cause notice dated 9th October, 2016.

5. Learned Collector (HQ) Daman shall hear the petitioner or

its representative including the advocate and shall pass appropriate order in response to the said show cause notice after considering the reply filed by the petitioner and oral submissions that would be advanced before him by the petitioner through an authorized representative or an advocate and shall pass an order in accordance with law. It is made clear that the observations made by the learned Collector (HQ) Daman found in the said show cause notice that the petitioners are found carrying out illegal mining on the plot in question in the proposed reserved forest land are *prima-facie* and not conclusive.

6. Learned Collector shall pass an order within two months from the date of first meeting. The petitioner is directed to appear before the learned Collector (HQ) Daman on 23th April, 2018 at 3:00 p.m. without fail.

7. All the contentions of both the parties are kept open.

8. The writ petition is disposed of in aforesaid terms. No order as to costs.

9. All the parties as well as the Authority to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)